

"support of BPP is easily explained -- they stand to gain a windfall increase in O+ calls without any effort on their own part whatsoever, and to the substantial detriment of all their other IXC competitors, large and small alike."⁴⁶

LinkUSA strongly agrees with the commenter who said, "If the FCC is truly concerned with promoting entrepreneurship with the telecommunications industry, it should not implement a proposal that would make it virtually impossible for regional operator services providers to survive and would necessarily turn the operator service market into an oligopoly composed of AT&T, MCI, and Sprint. This result would certainly not be in the public interest and should be prevented."⁴⁷

B. BPP Will Restore the LEC Monopoly of Pay Phone and Operator Services

As discussed by LinkUSA and several others in the initial phase of this proceeding, BPP will restore the LEC's monopoly control of operator and public communications services.⁴⁸ One commenter described BPP as "nothing more than the fabled 'wolf in sheep's clothing' being proposed by one or more of the LECs attempting to position themselves to reclaim their former monopoly

⁴⁶Cleartel comments at Page 20.

⁴⁷Advanced Technologies Cellular Telecommunications, Inc. comments at Pages 4-5.

⁴⁸See Arizona Department of Corrections comments at Page 5; AH&MA comments at Page 9; AMNEX comments at Page 14; California Payphone Association at Page 4, Comptel comments at Page 24; ITI comments at Page 13; Opticom comments at 27-30; RCI Long Distance comments at pages 3-5; USLD comments at Pages 16-17.

over pay telephone and operator services."⁴⁹ LinkUSA agrees.

Although there are inconsistencies in the manner in which the parties describe how BPP calls will be processed, no one can deny that BPP will centralize all operator intelligence and functions within the purview of the LECs. In other words, if BPP is implemented, nearly all the operator service functions currently performed by the IXC or the public communications provider will instead be performed by the LEC, including:

Providing "bong tone" and collecting calling card billing information;

Determination of proper routing of operator assisted calls;

Validation and forwarding of billing data provided by consumers;

Thus, the role of the IXC would be effectively limited to merely a switching and rating function. The LECs would have complete control of nearly all aspects of operator assisted call processing. Such arrangements are in clear violation of the thrust and intent of the MFJ which sought to abolish the BOCs' entrenched monopoly of telecommunications services.

Implementation of BPP would also permit the LECs to generate revenue heretofore unavailable to the LECs. As one commenter observes, the LECs could receive \$1.00 for bong tone generation and information collection, \$.12 for a LIDB query, and \$.15 for routing and forwarding the call and billing data.⁵⁰ BPP represents yet

⁴⁹Arizona Department of Corrections comments at Page 5.

⁵⁰Message Phone comments at Page 27.

another mechanism by which the LECs could reap enormous financial gain by virtue of their bottleneck control over interexchange access services.

If implemented, BPP would force call aggregators to relinquish their control over the services and equipment provided to their patrons. Managers of transient facilities such as hotels, hospitals, educational institutions, and airports have configured their telephone systems to optimize quality and efficiency of service and minimize fraud. In a BPP system, the LECs would dictate the extent to which new services and technologies could be introduced and utilized.

The AH&MA emphasizes that "the growth in T-1 connections to hotels serves as a good example of a new cost-savings and service-enhancing technology that could be arrested by BPP....Elimination of these connections alone would severely impair current and evolving technology."⁵¹ In the opinion of LinkUSA, operational, technical, and administrative capabilities (or deficiencies) of the LECs should not dictate the quality, availability, or features of the American telecommunications system.

The self-serving interests of some of the Regional Bell Operating Companies ("RBOCs") are implicit throughout some of the initial comments in this proceeding. Pacific Telesis, for example, advocates that BPP made mandatory for all LECs and IXC's.⁵² This proposal is blatantly anti-competitive and reeks of anti-trust

⁵¹AH&MA comments at Pages 8-9.

⁵²Pacific Telesis ("Pacific") comments at Page 12.

abuses. It guarantees that the LEC would control all of the millions of operator assisted calls processed every day, including those placed using access code dialing. Furthermore, the inability of most IXCs to participate in BPP has been well documented in this, and other, Commission proceedings. A directive that all IXCs participate in BPP would annihilate IXC competition.

Southwestern Bell is concerned that access code dialing bypasses its network for intraLATA calls. It claims that BPP will facilitate its efforts to establish "Mutual Card Honoring Agreements" with IXCs. These arrangements would "permit customers to use cards issued by carriers other than AT&T in the most convenient manner possible for placement of local and intraLATA calls."⁵³ In the opinion of LinkUSA, SWB is clearly using BPP as a means of resecuring its monopoly of the intraLATA services market.

As demonstrated by LinkUSA, and other parties to this proceeding, "BPP will not work to promote competition.... The purpose of the MFJ was to eliminate monopoly and introduce competition into markets for communications services to the greatest extent possible. This objective will never be achieved if former monopolists are able to seek regulatory intervention to protect their already significant market share and, in the process, ironically but effectively, destroy competition and all of its

⁵³Southwestern Bell comments at Page 9.

attendant benefits."⁵⁴

III. BPP IS UNECONOMICAL AND CANNOT BE COST JUSTIFIED

The price tag associated with BPP is increasing exponentially each time the Commission solicits cost information from the LEC community. Southwestern Bell, for example, was informed by one vendor that the cost to modify equipment supplied by the vendor had increased 68%, from \$75 million to \$125 million, in the few weeks prior to submission of its comments. Although the cost projections supplied by the LECs are preliminary and use inconsistent methodologies, the comments indicate that the direct costs of implementing BPP is quickly approaching \$2 billion. Estimates of maintenance expenses of the LECs are equally horrifying.

LinkUSA anticipates that the Commission will receive extensive cost analyses from various other parties and, therefore, has foregone conducting its own detailed examination of LEC costs. LinkUSA submits, however, that a comprehensive definition of BPP and uniform cost methodologies be developed and used to evaluate BPP costs and recovery, should the Commission decide to proceed further with its consideration of BPP. Regardless of the actual cost of BPP, however, recovery of these expenses cannot be achieved in an equitable and affordable manner.

The LECs are rightfully concerned that consumers and IXCs will

⁵⁴Opticom comments at Page 29. Nearly 30 organizations offer their support of Opticom's arguments.

"bypass" BPP for more economical and cost efficient operator assisted service.⁵⁵ According to Bell South, "if customers of the three largest carriers were permitted to bypass using 10XXX dialing, as much as 75% of all O+ traffic would be diverted."⁵⁶ If, however, BPP cannot be justified as a desirable service for carriers and consumers under price cap criteria as a stand alone new service, then its implementation should be rejected.

Pacific Telesis proposes to assure full cost recovery by mandating that all IXCs participate in BPP. Other LECs advocate that BPP costs be classified as exogenous and that the enormous expense of BPP be recovered through a separate tariffed rate element that would apply to all operator assisted calls, including those dialed with an access code.⁵⁷ The LECs would presumably collect these fees in the form of higher access charges to IXCs.

LinkUSA is vigorously opposed to any cost recovery method which would impose BPP costs or operating requirements upon IXCs who do not voluntarily utilize services. Most third tier IXCs often operate within small profit margins, and would, therefore, be expected to elect to continue to service their travelling customers using access code dialing arrangements if BPP were implemented. It is inappropriate to impose BPP obligations, whether economic, operational, or otherwise, upon unwilling IXCs.

⁵⁵Bell Atlantic comments at Page 6; NYNEX comments at Page 18;

⁵⁶Bell South comments at Page 13.

⁵⁷Ameritech comments at Page 21; Bell Atlantic comments at Pages 6-7; GTE comments at Page 13; and Bell South at Pages 12-13.

There is substantial doubt that the costs of BPP can be justified under the Commission's current LEC price cap rules, or otherwise. Even the most tenacious proponent of BPP concedes that "the costs of deploying BPP could be wasted, unless the Commission is careful in prescribing rules and cost recovery mechanisms for its implementation."⁵⁸ The preponderance of comments demonstrate that the extraordinary expenditures of BPP cannot be recovered without imposing significant financial obligations upon IXC's and the consumers they service.

The billions of dollars that would be expended by the LECs and IXC's to implement BPP would be more wisely spent on developing innovative telecommunications services and products. A policy of BPP will divert, and in many cases, drain, the technical and financial resources of numerous American companies. The quality of telecommunications services in the United States vis-a-vis other nations has been a major concern of the Congress and federal policy makers. BPP would severely undermine the ability of these companies to improve communications in the United States and to enter and serve world markets.

IV. BPP IS UNWARRANTED

A. Current Rules Satisfy and Protect Consumer Needs

The passage of the Telephone Operator Consumer Services Improvement Act ("TOCSIA") and actions by this Commission have assured that consumers have the ability to utilize their carrier of choice from publicly available telephones. The industry has

⁵⁸Bell Atlantic comments at Page 1.

invested substantial monies and resources to comply with federal requirements such as posting, unblocking, branding, and reporting rules. States across the nation, having concluded lengthy and costly administrative proceedings, have sanctioned legislation and rules which are generally consistent with the FCC's policies. These actions, combined with the increased availability of operator transfer services and the introduction of third tier IXCs into the market, assure consumers access to competitive, innovative, and affordable operator assisted services.

Some commenters have alleged that BPP will eliminate the problems that plagued the competitive operator services industry at the time of its inception.⁵⁹ The Florida Public Service Commission, for example, has provided a list of five concerns that are affecting users of operators services in the state.⁶⁰ LinkUSA submits that these problems exist primarily because Florida continues to enforce its 10XXX unblocking requirement when the industry is unprepared to universally comply with this operating requirement. The majority, if not all phones at aggregator locations permit consumers to access an alternative IXC using 1-800, 950, 10XXX, or O- operator transfer services. Thus, although consumers in Florida may not be capable of using 10XXX arrangements from all phones, it is possible for these callers to bypass the

⁵⁹See Sprint comments at Page 18; Florida Public Service Commission at Pages 3-4, Illinois Commerce Commission, the Indiana Utility Regulatory Commission, the Public Utilities Commission of Ohio, and the Public Service Commission of Wisconsin comments at Page 12.

⁶⁰Florida Public Service Commission at Pages 3-4.

presubscribed IXC if they so desire.

The Florida Commission is also concerned about the prices assessed by IXCs for operator assisted calls. However, many states, including Florida, limit the level of rates and charges to AT&T levels. Federal rules prescribe the filing, and potential scrutiny, of informational tariffs as a means of overseeing interstate prices. In addition, current market forces strongly discourage IXCs charging excessive rates for operator assisted calls. Call aggregators will not jeopardize their businesses by condoning unreasonable pricing of telephone services.

More importantly, as demonstrated by these and other comments in this proceeding, implementation of BPP would cause upward pressure on consumer prices. LECs and IXCs will be compelled to increase rates to recover their costs to participate in BPP.⁶¹ Supporters of BPP ignore this important, and undesirable consequence of the service.

LinkUSA does not dispute that consumers experienced major problems when the operator services industry was in its infancy however, market conditions have changed dramatically since that time. Improvements in the manner in which operator services are provided and priced have prompted BellSouth, once a strong advocate of BPP, to abandon its position and support the current system. In BellSouth's opinion "a combination of developments on several

⁶¹If BPP is implemented, its costs could potentially be allocated to all IXCs, not only those actively participating in the services. As a result, significant increases in alternative access arrangements such as 10XXX can be anticipated, as well.

fronts has transformed the operator services industry. In light of these circumstances, BellSouth does not believe that the introduction of BPP at this time would provide new competitive stimulus to the market."⁶²

If the Commission is dissatisfied with the rules and regulations that currently govern operator services, it has the statutory authority and responsibility to change them. As LinkUSA discussed in its initial comments, such actions could include:

Amending signage requirements to require aggregators whose surcharges exceed a specified amount to post the actual amount of the surcharge;

Require that IXCs whose rates exceed a certain threshold provide verbal notices to consumers that "our rates apply" to operator assisted calls; and/or

Prescribe rules which require written notices to consumers where 10XXX access is restricted.⁶³

Although LinkUSA hopes that these actions are not necessary given the current market conditions, this approach circumvents the operational and technical constraints associated with BPP and can be implemented more quickly, economically, and universally than can any form of BPP.

⁶²BellSouth comments at Page 7.

⁶³LinkUSA comments at Page 23.

B. The Commission Should Adopt Its Proposed Rule
Governing Proprietary Calling Cards

Access to validation and billing of "proprietary" calling cards in the public domain (0+ access) is the only impediment to true competition in operator services. AT&T has virtually monopolized this market segment by issuing over 40 million CIID cards. Consumers have been instructed by AT&T to discard their "universal" line number cards and to use this "proprietary" billing instrument while traveling. Because only the LECs and AT&T can validate and bill calls to this calling card, consumers have become outraged when attempting to use the card at locations served by non-AT&T carriers. Aggregators striving to accommodate their customers, have rejected or terminated arrangements with other IXCs.

AT&T's continued exploitation of its calling card should not be permitted to continue. Its abuses of consumers has enabled it to recapture the lion's share of accounts at transient locations. For example, 19 of the top 20 hotel chains have contracted with AT&T to provide operator services.⁶⁴ AT&T's success in securing these, and other sizable accounts, can be directly attributed to its abusive marketing tactics and operational limitations that characterize the card. AT&T substantiates its success in dominating the calling card market in its comments, stating that interLATA traffic billed to calling cards increased 19% between

⁶⁴AH&MA comments at Page 12.

1985 and 1991.⁶⁵ This phenomenal growth is a direct result of AT&T's massive campaign to persuade consumers to use its "proprietary" card exclusively.

LinkUSA strongly urges the Commission to take immediate action to adopt its proposed rule that all O+ calling cards be available for validation and billing by all IXC's and that "proprietary" cards require the use of access code dialing. Numerous other commenters support such action as the final, and most economical, means of providing consumers with convenient, efficient and innovative operator assisted services.

⁶⁵AT&T comments at Page 6.

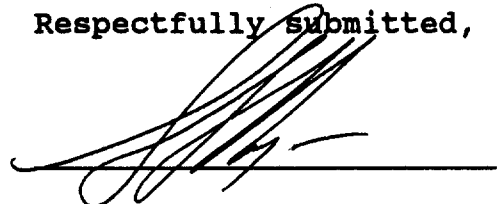
V. CONCLUSION

LinkUSA agrees with the majority of commenters that the economic, operational, and competitive ramifications of BPP render the service impractical and unreasonable. Implementation of BPP would fundamentally alter the American telecommunications system. It clearly imposes tremendous burdens upon consumers and carriers; cost recovery methodologies are inequitable and unaffordable. Supporters of BPP have failed to demonstrate that the substantial expense and service deficiencies are justified.

BPP, if implemented, will undoubtedly frustrate and confuse consumers and will not afford them any significant advantage over the current system. It represents a massive deterioration in the quality and availability of telephone services, increases in rates, and reductions in the options, features, and telephones available for consumer use. These factors clearly justify the Commission's rejection of BPP as a viable call processing alternative.

For these reasons, LinkUSA strongly urges the Commission to reject its tentative conclusion that BPP is in the public interest.

Respectfully submitted,



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August 26, 1992

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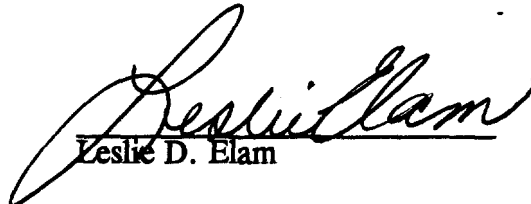
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I, Leslie Elam, hereby certify that a copy of the foregoing Comments of LinkUSA was served by Federal Express this 27th day of August 1992 to the persons listed below.

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August 27, 1992